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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/243,568 02/03/99 SCHONROCK

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HM12/1107

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EXAMINER

MURRAY, J

ART UNIT

PAPER NUMBER

1626

DATE MAILED:

11/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/243,568

Applicant(s)

Schonrock et al

Examiner

Joseph Murray

Group Art Unit

1626



☒ Responsive to communication(s) filed on Aug 28, 1900

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 22-26 and 28-33 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 22-26 and 28-33 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Claims 22-26, and 28-33 are pending in the instant application.

Claim Rejections - 35 USC § 103

Claims 22-26, and 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al, JP 04099730, Inoue et al, JP 04099771, and Shtikhande, et al, J. Of Food Sci. The rejection is maintained for the reasons of record set forth in paper no. 16.

Response to Arguments

Applicant's arguments filed 8/28/00 have been fully considered but they are not persuasive. Applicant argues that the browning of a cosmetic, dermatologic, or food composition can not be equated, or viewed as being the same as the oxidation of the same. It is agreed that UV light alone will discolor organic compounds in the absence of oxygen, however this also is the oxidation of the organic compound since oxygen is not required to oxidize a compound, and oxygen need not be a part of the oxidized compound. Nevertheless, since the oxidation of the composition is the result of the claimed method and not part of the method itself, e.g. the method steps, which is the inventive subject matter of the claim, this argument is not persuasive. The instant application claims a method that adds to a cosmetic or dermatologic composition an effective amount of one of an ascorbyl compound and ascorbic acid and an effective amount of a flavanoid, flavone, flavanol, etc., now narrowed to alpha-glycosylrutin, in order to inhibit or prevent oxidation of the composition. The prior art reference, specifically JP 04099730, also

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teaches the addition of ascorbic acid and their derivatives and flavanoid glycosides to cosmetic and food compositions. Thus the method and use of the compounds in cosmetic compositions is known in the art, and it would be expected that these compounds would produce the desired results instantly claimed since they are well known antioxidants. Thus, it would have been obvious to one of ordinary skill in the art to add the claimed compounds to a cosmetic or dermatologic composition given the teaching of the prior art references and the general state of the art at the time the invention was made.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Joseph Murray whose telephone number is (703) 308-4540. The examiner can normally be reached from 7:30 to 4:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Joseph McKane, can be reached on (703) 308-4537. The fax phone number for this group is (703) 308-4556.

A handwritten signature in cursive script, reading "Joseph McKane", written over a horizontal line.

Joseph McKane
Supervising Patent Examiner
Art Unit 1626

Joseph Murray
November 6, 2000